

ORDINANCE NO. 100687

APPROVING THE FORM OF, AND CONSENTING TO THE CITY OF SAN ANTONIO, TEXAS CONVENTION CENTER HOTEL FINANCE CORPORATION (THE "ISSUER") ENTERING INTO, ALL AGREEMENTS AND INSTRUMENTS TO WHICH THE ISSUER IS A PARTY IN CONNECTION WITH THE ISSUANCE OF UP TO \$130,000,000 OF ITS CONTRACT REVENUE EMPOWERMENT ZONE BONDS, SERIES 2005A, AND UP TO \$100,000,000 OF ITS CONTRACT REVENUE BONDS, TAXABLE SERIES 2005B (COLLECTIVELY, THE "BONDS"), INCLUDING BUT NOT LIMITED TO AN INDENTURE OF TRUST, LOAN AGREEMENT, ECONOMIC DEVELOPMENT AGREEMENT, LOCK BOX AND CASH MANAGEMENT AGREEMENT, AND CONTINUING DISCLOSURE AGREEMENT, AND AUTHORIZING THE ISSUER AND ITS PROFESSIONAL ADVISORS TO TAKE ALL OTHER ACTIONS DEEMED NECESSARY IN CONNECTION WITH THE ISSUANCE OF THE BONDS

WHEREAS, the City of San Antonio, Texas (the "City") owns and operates a convention center known as the *Henry B. Gonzales Convention Center* (the "Convention Center"); and

WHEREAS, the City desires to enter into a *Project Agreement*, to be dated on or about May 26, 2005 (the "Project Agreement") with Hotel Investments, L.P., a Delaware limited partnership (the "Developer") for the purpose of the Developer's designing, developing, constructing, equipping, furnishing and opening a full-service headquarters hotel and related parking (the "Convention Center Hotel Project") that will be initially owned by the Developer and located adjacent to the Convention Center on land owned by, and initially leased or licensed from, the City, and also desires to enter into a *Ground Lease and License Agreement* with the Developer, to be dated on or about May 26, 2005, (the "Ground Lease") pursuant to which the property owned by the City on which the Convention Center Hotel Project will be built will be leased or licensed to the Developer for an initial term of approximately 75 years; and

WHEREAS, the City has determined that the construction and operation of the Convention Center Hotel Project will promote economic development and will stimulate business and commercial activity in the City; and

WHEREAS, pursuant to the provisions of Subchapter D of Chapter 431, Texas Transportation Code, as amended, the City created the *City of San Antonio, Texas Convention Center Hotel Finance Corporation* (the "Issuer"), a Texas nonprofit local government corporation, "for the purpose of financing a portion of the costs required to construct, furnish and equip a privately-owned hotel to be located on land owned by the City that is adjacent to the City's Convention Center in order to promote economic development and to stimulate business and commercial activity in the City, all at the request of the City Council of the City"; and

WHEREAS, the Convention Center Hotel Project is to be financed with a combination of funds provided by various entities including (i) up to \$130,000,000 in principal amount of *City of San Antonio, Texas Convention Center Hotel Finance Corporation Contract Revenue Empowerment Zone Bonds, Series 2005A* (the "Tax-Exempt Bonds"), (ii) up to \$100,000,000 in principal amount of *City of San Antonio, Texas Convention Center Hotel Finance Corporation Contract Revenue Bonds, Taxable Series 2005B* (the "Taxable Bonds" and collectively with the Tax-Exempt Bonds, the "Bonds"), and approximately (iii) \$77,300,000 of funds or capital asset contributions provided by the Developer and other equity investors identified and arranged by the Developer; and

WHEREAS, in lieu of the City issuing revenue bonds to finance the Convention Center Hotel Project as permitted by Chapter 1504, Texas Government Code, particularly Section 1504.002 thereof, the City has requested the Issuer to issue the Bonds on behalf of the City and in so doing will aid and act on behalf of the City to accomplish the governmental purpose of issuing revenue bonds to finance a portion of the Convention Center Hotel Project as permitted by Section 431.101(a), Texas Transportation Code; and

WHEREAS, the Bonds will be issued pursuant to the terms of an *Indenture of Trust* between the Issuer and Wells Fargo Bank, N.A., as Trustee, to be dated on or about May 15, 2005, together with any amendments and supplements thereto (the "Indenture"); and

WHEREAS, proceeds of the Bonds will be loaned by the Issuer to the Developer pursuant to the terms of a *Loan Agreement* between the Issuer and the Developer (the "Loan Agreement"), and the Developer will be obligated, pursuant to the Loan Agreement and the Ground Lease, to pay all operation and maintenance expenses of the Convention Center Hotel Project and debt service related to the Bonds with certain operating revenues generated from the Convention Center Hotel Project (more specifically defined in the Loan Agreement and the Ground Lease and referred to herein as the "Net Operating Revenues"); and

WHEREAS, the Bonds will be secured by and payable from a pledge of the Net Operating Revenues, and, pursuant to an *Economic Development Agreement*, dated as of May 15, 2005 (the "Economic Development Agreement"), which has been approved by a separate Ordinance, the City will be committed to provide additional security for the Bonds by pledging or granting available revenues derived from certain local hotel occupancy taxes and from certain state hotel occupancy taxes and sales taxes, as further described below; and

WHEREAS, the scheduled payments of the principal of and interest on the Bonds when due will be guaranteed under a municipal bond insurance policy (the "Municipal Bond Insurance Policy") to be issued by Ambac Assurance Corporation (the "Bond Insurer") in accordance with the terms set forth in the Municipal Bond Insurance Policy; and

WHEREAS, the Bonds will be further secured by a first lien mortgage on certain real and personal property of the Developer pursuant to a Deed of Trust and Security Agreement, dated as of even date herewith, between the Developer and the trustee named therein, for the benefit of the Issuer (the "Deed of Trust"); and

WHEREAS, the net proceeds of the Bonds, together with certain funds or other assets contributed by equity investors arranged by the Developer, will be used by the Developer to (i) design, develop, construct, equip, furnish and open the Convention Center Hotel Project (including payment of all engineering, architectural and other professional fees related to the design, development and construction of the Convention Center Hotel Project, primarily pursuant to the terms of the Project Agreement), (ii) fund approximately 38 months of capitalized interest (which is intended to cover the period commencing with the date of issuance of the Bonds through six months following completion of construction of the Convention Center Hotel Project), (iii) fund a debt service reserve fund equal to the maximum principal and interest requirements on the Bonds either with proceeds of the Bonds or with a reserve fund surety policy, or a combination thereof, (iv) pay the premium for the Municipal Bond Insurance Policy, and (v) pay costs of issuance; and

WHEREAS, the City Council now deems it necessary and appropriate to approve the form of, and consent to the Issuer entering into, all agreements and instruments to which the Issuer is a party in connection with the issuance of the Bonds, including but not limited to the following agreements:

- (i) the Indenture;
- (ii) the Loan Agreement;
- (iii) the Economic Development Agreement;
- (iv) a Lock Box and Cash Management Agreement, dated as of May 15, 2005, by and among the Issuer, the Trustee, the Developer, and the Hyatt Corporation as the initial operator of the Convention Center Hotel Project (the "Cash Management Agreement"); and
- (v) a Continuing Disclosure Agreement, dated as of May 15, 2005, by and among the Issuer, the City and the Developer;

WHEREAS, the agreements listed in the preceding recital are collectively referred to herein as the "Issuer Agreements"; and

WHEREAS, the City Council now deems it necessary and appropriate to authorize the Issuer, on behalf of the City, to take all other actions and approve all other agreements and instruments deemed

4/14/05
ITEM #4F

necessary in connection with issuing the Bonds and providing a portion of the financing for the Convention Center Hotel Project; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code; **NOW THEREFORE**:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, TEXAS:

SECTION 1. CONSENT TO AND APPROVAL OF ISSUER AGREEMENTS. The City Council hereby consents to and approves each of the Issuer Agreements described in the recitals of this Ordinance in substantially the form presented at this meeting and further consents to and authorizes appropriate officials of the Issuer, as authorized by the Board of Directors of the Issuer to approve any and all changes to all Issuer Agreements from the forms presented and approved at this meeting, and such approval shall be evidenced by the signature of such official of the Issuer thereon and the delivery of such executed Issuer Agreement concurrent with the initial delivery of the Bonds.

SECTION 2. AUTHORIZATION OF OTHER NECESSARY ACTIONS. To the extent authorized by the Board of Directors of the Issuer, the City Council hereby consents to the appropriate officials of the Issuer, as authorized by the Board of Directors of the Issuer, to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the Issuer all such instruments, documents and agreements, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the Issuer Agreements. In addition, prior to the initial delivery of the Bonds, the Mayor, the City Manager, any Assistant City Manager, the City Clerk, the Finance Director, and all other officers and employees designated by the Interim City Manager, and Co-Bond Counsel related to the Bonds are each hereby authorized and directed to approve any technical changes or corrections to this Ordinance in order to: (i) correct any ambiguity or mistake, or properly or more completely document the transactions contemplated and approved by this Ordinance; (ii) obtain the approval of the Bonds and the related financing documents by the Attorney General of Texas, as required by law; (iii) obtain municipal bond insurance for the Bonds from Ambac Assurance Corporation; or (iv) obtain the ratings contemplated in the Official Statement.

SECTION 3. ENFORCEABILITY OF ORDINANCE. If any section, paragraph, clause, or provision of this Ordinance shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance. In case any obligation of the City authorized or established by this Ordinance or the City Agreements is held to be in violation of law as applied to any person or any circumstance, such obligation shall be deemed to be the obligation of the City to the fullest extent permitted by law.

4/14/05
ITEM #4F

SECTION 4. INCORPORATION OF RECITALS. The City Council hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City Council hereby incorporates such recitals as a part of this Ordinance.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective on the tenth day from passage hereof.

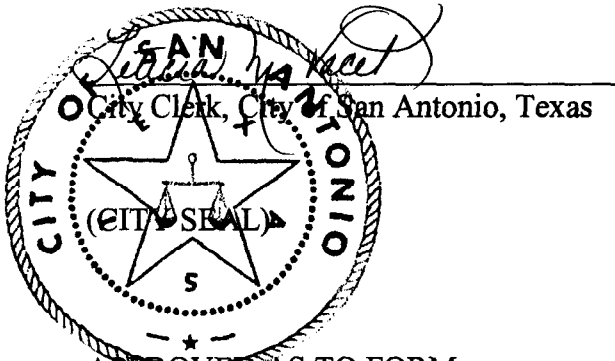
[The remainder of this page intentionally left blank]

4/14/05
ITEM #4F

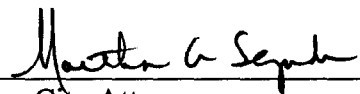
PASSED AND APPROVED THIS 14TH DAY OF APRIL, 2005.


MAYOR

ATTEST:



APPROVED AS TO FORM:

By: 
Acting City Attorney

** ** *

[SIGNATURE PAGE FOR CITY ORDINANCE APPROVING ISSUER AGREEMENTS]

Agenda Voting Results

Name: 4 F

Date: 04/14/05

Time: 05:07:17 PM

Vote Type: Multiple selection

Description: An Ordinance approving the form of, and consenting to the City of San Antonio, Texas Convention Center Hotel Finance Corporation (the "Issuer") entering into, all agreements and instruments to which the Issuer is a party in connection with the issuance of up to \$130,000,000 of its Contract Revenue Empowerment Zone Bonds, Series 2005A, and up to \$100,000,000 of its Contract Revenue Bonds, Taxable and potential Tax-Exempt bonds (collectively, the "Bonds"), including but not limited to an indenture of trust, loan agreement, economic development agreement, lock box and cash management agreement, equity funding agreement, and continuing disclosure agreement, and authorizing the Issuer and its professional advisors to take all other actions deemed necessary in connection with the issuance of the Bonds.

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		X		
JOEL WILLIAMS	DISTRICT 2		x		
RON H. SEGOVIA	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
ENRIQUE M. BARRERA	DISTRICT 6		x		
JULIAN CASTRO	DISTRICT 7	Not present			
ART A. HALL	DISTRICT 8		x		
CARROLL SCHUBERT	DISTRICT 9				x
CHIP HAASS	DISTRICT_10		x		
MAYOR ED GARZA	MAYOR		x		